

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
DIZIRRA SAN-MARTIN,

Plaintiff,

~ against ~

Index#:

VERIFIED COMPLAINT

THE CITY OF NEW YORK, THE NEW YORK
CITY POLICE DEPARTMENT, NEW YORK
CITY POLICE OFFICER SHAREEN GRANT
SHIELD #20804, NEW YORK CITY POLICE
OFFICER RAMYSH BANGALI SHIELD
#002326, OFFICERS JANE AND JOHN DOE
WHO WERE AT THE SCENE WHOSE NAMES
ARE CURRENTLY UNKNOWN, SGT. IN
CHARGE OF ARREST UNDER DOCKET
#2011BX005204 AND ARREST #B11607772
NAMED HEREIN AS JOHN/JANE DOE I,

Defendant.

-----X

PLAINTIFF, by her attorney, FELICE V. TORRES as and for her VERIFIED

COMPLAINT, alleges upon information and belief as follows:

AS AND FOR A FIRST CAUSE OF ACTION

1. At all times mentioned, Plaintiff DIZIRRA SAN-MARTIN was a resident of Bronx County, City and State of New York.
2. At all times mentioned, Defendant CITY OF NEW YORK, was and is a municipal corporation duly organized and existing by virtue of the laws of the State of New York.
3. On or about the 14th day of December 2011 and deemed timely served as per the Court's Order dated February 2, 2012, the Plaintiff served a Notice of Claim in writing sworn to on their behalf upon the Defendant CITY OF NEW YORK, by delivering a copy thereof in duplicate to the officer designated to receive such process personally,

COUNTY CLERK
BRONX COUNTY

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which Notice of Claim advised the Defendant CITY OF NEW YORK, of the nature, place, time and manner in which the claim arose, the items of damage and injuries sustained so far as was then determinable.

4. At least thirty (30) days have elapsed since the service of the claim prior to the commencement of this action and adjustment of payment thereof has been neglected or refused, and this action has been commenced within one year and ninety (90) days after the happening of the event upon which the claims are based.

5. The Plaintiff has complied with the request of the municipal Defendants for an oral examination pursuant to Section 50-H of the General Municipal Law and/or the Public Authorities Law and said oral examination is scheduled for March 13, 2012.

6. Upon information and belief, at all times mentioned, Defendants NEW YORK CITY POLICE OFFICER SHAREEN GRANT SHIELD #20804, NEW YORK CITY POLICE OFFICER RAMYSH BANGALI SHIELD #002326, OFFICERS JANE AND JOHN DOE WHO WERE AT THE SCENE WHOSE NAMES ARE CURRENTLY UNKNOWN, SGT. IN CHARGE OF ARREST UNDER DOCKET #2011BX005204 AND ARREST #B11607772 NAMED HEREIN AS JOHN/JANE DOE I, were and are police officers of the Defendant City of New York, and at all times herein were acting in such capacity as the agents, servants and employees of the Defendant, THE CITY OF NEW YORK.

7. On or about January 28, 2011 at approximately 2:10 a.m. in the vicinity of 735 East 165th Street County of the Bronx, State of New York, the Defendants jointly and severally in their capacity as police officers, wrongfully touched, grabbed, handcuffed and seized the Plaintiff DIZIRRA SAN-MARTIN, in an excessive manner about her

person, causing her physical pain and mental suffering. At no time did the Defendants have legal cause to grab, handcuff seize or touch the Plaintiff, nor did the Plaintiff consent to this illegal touching nor was it privileged by law.

AS AND FOR A SECOND CAUSE OF ACTION

8. Plaintiff repeats, reiterates and re-alleges all of the allegations contained in Paragraphs "1" through "7" with full force and effect as though set forth at length herein.

9. On or about December 22, 2010 at approximately 5:30 p.m. in the vicinity of 714 Cortland Avenue County of the Bronx, State of New York inside of a grocery store located thereat, the Defendants, jointly and severally did place Plaintiff DIZIRRA SAN-MARTIN in imminent fear of physical contact by approaching the Plaintiff with loaded firearms, outstretched limbs, and other objects which they used to physically seize and restrain the Plaintiff. All of the above actions placed the Plaintiff in imminent fear of physical contact. At no time did the Plaintiff consent to the unlawful actions of the Defendants.

AS AND FOR A THIRD CAUSE OF ACTION

10. Plaintiff repeats, reiterates and re-alleges all of the allegations contained in Paragraphs "1" through "9" with full force and effect as though set forth at length herein.

11. On or about January 28, 2011 at approximately 2:10 a.m. in the vicinity of 735 East 165th Street County of the Bronx, State of New York, the Defendants, jointly and severally without any warrant, order or other legal process and without any legal right, wrongfully and unlawfully arrested the Plaintiff, restrained her and her liberty and then took her into custody to a police station in the County of the Bronx and there charged her with the crimes on DOCKET No. 2011BX005204. The Plaintiff was thereafter held in

custody over the course of three (3) days before she was released on her own recognizance after arraignment. The Defendants intentionally confined the Plaintiff without her consent and the confinement was not otherwise privileged by law and, at all times, the Plaintiff was conscious of her confinement.

AS AND FOR A FOURTH CAUSE OF ACTION

12. Plaintiff repeats, reiterates, and re-alleges all of the allegations contained in paragraphs "1" through "11" as it set forth at length herein.

13. Upon information and belief, on or about January 28, 2011 and from that time until the dismissal of charges on or about February 22, 2011 by the Honorable Judge presiding at, Bronx Supreme Court, Defendants, NEW YORK CITY POLICE OFFICER SHAREEN GRANT SHIELD #20804, NEW YORK CITY POLICE OFFICER RAMYSH BANGALI SHIELD #002326, OFFICERS JANE AND JOHN DOE WHO WERE AT THE SCENE WHOSE NAMES ARE CURRENTLY UNKNOWN, SGT. IN CHARGE OF ARREST UNDER DOCKET #2011BX005204 AND ARREST #B11607772 NAMED HEREIN AS JOHN/JANE DOE I deliberately and maliciously prosecuted plaintiff, DIZIRRA SAN-MARTIN, an innocent woman without any probable cause whatsoever by filing or causing a felony complaint to be filed in the criminal court of the City of New York, Bronx County for the purpose of falsely accusing the plaintiff of violations of the criminal law of the State of New York.

14. The defendants, jointly and severally, their agents, servants or employees failed to take reasonable steps to stop the prosecution of the plaintiff and instead maliciously and deliberately provided false and/or incomplete information to the District Attorney's office to induce prosecution of the plaintiff.

15. The commencement of these criminal proceedings under Docket No. 2011BX005204 was malicious and began in malice and without probable cause, so that the proceedings could succeed by the defendants.

16. As a result of the malicious prosecution, plaintiff was deprived of her liberty and suffered the humiliation, mental anguish, indignity, and frustration of an unjust criminal prosecution. The plaintiff made multiple court appearances to defend her liberty against these unjust charges.

AS AND FOR A FIFTH CAUSE OF ACTION

17. Plaintiff repeats, reiterates, and re-alleges all of the allegations contained in paragraphs "1" through "16" as it set forth at length herein.

18. Defendants NEW YORK CITY POLICE OFFICER SHAREEN GRANT SHIELD #20804, NEW YORK CITY POLICE OFFICER RAMYSH BANGALI SHIELD #002326, OFFICERS JANE AND JOHN DOE WHO WERE AT THE SCENE WHOSE NAMES ARE CURRENTLY UNKNOWN, SGT. IN CHARGE OF ARREST UNDER DOCKET #2011BX005204 AND ARREST #B11607772 NAMED HEREIN AS JOHN/JANE DOE I were at all times relevant, duly appointed and acting officers of the City of New York Police Department.

19. At all times mentioned herein, said police officers were acting under color of law, to wit: the statutes, ordinances, regulations, policies and customs and usage of the State of New York and/or City of New York.

20. Plaintiff DIZIRRA SAN-MARTIN is and at all times relevant herein, a citizen of the United States and a resident of Bronx County in the State of New York and brings

this cause of action pursuant to 42 United States Code, Section 1983 and 42 United States Code, Section 1988.

21. The Defendant CITY OF NEW YORK is a municipality duly incorporated under the laws of the State of New York.

22. On or about January 28, 2011 the Defendants, armed police, while effectuating the seizure of the Plaintiff DIZIRRA SAN-MARTIN, did search, seize, assault and commit a battery and grab the person of the Plaintiff without a court authorized arrest or search warrant. They did physically seize the person of the Plaintiff during the arrest process in an unlawful and excessive manner. The Plaintiff was falsely arrested and maliciously prosecuted without the Defendants possessing probable cause to do so. Further, the plaintiff was subjected to a warrantless strip search with cavity inspection even though the defendants did not possess a reasonable and/or probable cause to believe that the plaintiff had secreted contraband in or on her person.

23. The above action of the Defendants resulted in the Plaintiff being deprived of the following rights under the United States Constitution:

- a. Freedom from assault to her person;
- b. Freedom from battery to her person;
- c. Freedom from illegal search and seizure;
- d. Freedom from false arrest;
- e. Freedom from the use of excessive force during the arrest process.

24. The Defendants subjected the Plaintiff to such deprivations, either in a malicious or reckless disregard of the Plaintiff's rights or with deliberate indifference to those rights under the fourth and fourteenth amendments of the United States Constitution.

25. The direct and proximate result of the Defendants' acts is that the Plaintiff has suffered severe and permanent injuries of a psychological nature. She was forced to endure pain and suffering, all to her detriment.

AS AND FOR A SIXTH CAUSE OF ACTION

26. Plaintiff incorporates, repeats and re-alleges all of the allegations contained in Paragraphs "1" through "25" with full force and effect as though set forth at length herein.

27. Defendant CITY OF NEW YORK has grossly failed to train and adequately supervise its police officers in the fundamental law of arrest, search and seizure especially when its police officers are not in possession of a court authorized arrest warrant and where an individual, especially as here, has not committed a crime and has not resisted arrest, that its police officers should only use reasonable force to effectuate an arrest and the arrest should be based on probable cause.

28. The City of New York was negligent by failing to implement a policy with its Police Department and instruct police officers who, absent the consent of the Plaintiff (or similarly situated individuals) or without the possession of a court authorized arrest a search warrant, said police officers of the City of New York are not to arrest individuals such as the Plaintiff here where probable cause is lacking and the use of force should only be reasonable when an individual resists arrest and should not be used where a criminal defendant is not resisting arrest.

29. THE CITY OF NEW YORK is negligent due to its failure to implement a policy with its Police Department or actively enforce the law, if any of the following are lacking:

1. Probable cause must be present before an individual such as the Plaintiff herein can be arrested.
2. Excessive force cannot be used against an individual who does not physically resist arrest.
3. An individual who sustains physical injury at the hands of the police during the arrest process should receive prompt medical attention.
4. An individual such as the plaintiff herein cannot be subjected to a strip search with cavity inspection unless the police possess legal cause and/or have a reasonable suspicion and/or probable cause that the plaintiff has secreted contraband in or on his person.

30. The foregoing acts, omissions and systemic failures are customs and policies of the CITY OF NEW YORK which caused the police officers to falsely arrest, maliciously prosecute, seize illegally and search the Plaintiff, commit an assault/battery to her person, and denied him prompt medical attention under the belief that they would suffer no disciplinary actions for their failure to take proper or prudent steps in this case.

AS AND FOR A SEVENTH CAUSE OF ACTION

31. Plaintiff repeats, reiterates, and re-alleges all of the allegations contained in paragraphs "1" through "30" as it set forth at length herein.

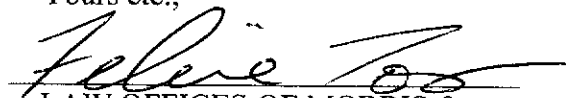
32. Defendant City of New York was negligent in that prior to and at the time of the acts complained of herein, due to the prior history of the Police Officers Defendants, knew or should have known of the bad disposition of said Defendants or had knowledge of facts that would put a reasonably prudent employer on inquiry concerning their bad disposition and the fact that these officers were not suitable to be hired and employed by

the CITY OF NEW YORK and that due to their lack of training, these officers should have had adequate supervision so that they would not arrest innocent individuals nor use excessive force during the arrest process.

WHEREFORE, Plaintiff demands judgment against the Defendants, together with the costs and disbursements of this action in the amount of damages greater than the jurisdictional limit of any lower court that would otherwise have jurisdiction, together with attorneys' fees and costs for bringing this case and punitive damages.

Dated: Bronx, New York
March 9, 2012

Yours etc.,



LAW OFFICES OF MORRIS &
TORRES, P.C.

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TO:

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100 Church Street
New York, New York 10007

NEW YORK CITY POLICE OFFICER SHAREEN GRANT SHIELD #20804
One Police Plaza, Room 1100
New York, New York 10038

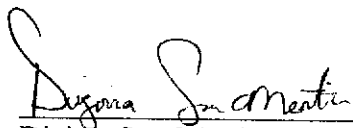
NEW YORK CITY POLICE OFFICER RAMYSH BANGALI SHIELD #002326
One Police Plaza, Room 1100
New York, New York 10038

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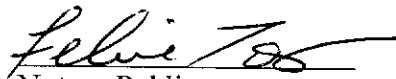
INDIVIDUAL VERIFICATION

STATE OF NEW YORK)
COUNTY OF BRONX) ss:

Dizirra San-Martin, being duly sworn deposes and says that the deponent is the Plaintiff in the within action; that deponent has read the foregoing **SUMMONS AND VERIFIED COMPLAINT** and knows the contents thereof; that the same are true to deponents own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes them to be true.


Dizirra San-Martin

Sworn to before me on this
16th day of March, 2012


Notary Public

Felice V. Torres
Notary Public, State of New York
No.02TO6125297
Qualified in Bronx County
Commission Expires April 11, 2013.

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SUMMONS AND VERIFIED COMPLAINT

LAW OFFICES OF MORRIS & TORRES, P.C.

Attorneys-at-Law

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